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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re Alyssa D., a Person Coming Under
the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

GUSTAVO D.,

Defendant and Appellant.

G041462

(Super. Ct. No. DP-016603)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, John C. Gastelum, Judge. Request for judicial notice. Appeal dismissed. Request for judicial notice granted.

William D. Caldwell, under appointment by the Court of Appeal, for Defendant and Appellant.

Nicholas S. Chrisos, County Counsel, and Karen L. Christensen, Deputy County Counsel, for Plaintiff and Respondent.

No appearance by the Minor.

Gustavo D., who is incarcerated, appealed from a dispositional order prohibiting him from having contact with his daughter, Alyssa D. While the appeal was pending, the court conducted a combined six- and twelve-month review hearing. Father was represented by counsel at the hearing but was not personally present. His lawyer signed a stipulation approving the prior visitation plan, which only provided for visitation with the child's mother and sister. Respondent Orange County Social Services Agency (SSA) thereupon filed a motion to dismiss the appeal as moot. The motion was accompanied by a request that we take judicial notice of SSA's report introduced at the review hearing as well as a written stipulation entered into at the time and the minute order of the proceeding. Father opposed the motion.

It is appropriate when considering whether an appeal has been rendered moot for us to take judicial notice of documents pertaining to the subsequent hearing. (*In re Karen G.* (2004) 121 Cal.App.4th 1384, 1390.) We therefore grant respondent's request we take judicial notice of the described documents.

In his opposition, father does not provide evidence that the stipulation was executed without his consent, in error, or was otherwise improper. He merely states, in the unverified document, that "[h]e would like to maintain some sort of contact . . . with [daughter] while he is incarcerated." Under these circumstances, we have no choice but to dismiss the appeal as moot. Even were we to reverse the earlier order, the subsequent stipulation and the order based on it would remain in effect, denying father visitation rights.

Although we lack evidence to determine why father stipulated to the previous order, if, in fact, the stipulation is erroneous, father's remedy is to seek relief from the stipulation in the trial court.

DISPOSITION

The request for judicial notice is granted. The appeal is dismissed.

RYLAARSDAM, ACTING P. J.

WE CONCUR:

MOORE, J.

IKOLA, J.